



# City of Grand Island

Tuesday, March 28, 2006

Council Session

## Item F3

**#9036 - Consideration of Amendments to Chapter 2 of the Grand Island City Code Relative to Administration**

Staff Contact: Doug Walker

# Council Agenda Memo

**From:** Douglas R. Walker, City Attorney

**Meeting:** March 28, 2006

**Subject:** City Code Revisions to Chapter 2 Relative to Administration

**Item #'s:** F-3

**Presenter(s):** Douglas R. Walker, City Attorney

## Background

The Mayor, City Council and City Administration established a goal this year of revising the Grand Island City Code. The code revision committee has met and has drafted changes to Chapter 2 of the City Code for City Council consideration. The proposed revisions are so that the City Code will reflect current state law and to clarify ambiguous portions of Chapter 2.

## Discussion

The primary changes that are being proposed to Chapter 2 are as follows:

- Section 2-5 of the Code is being amended to clarify the number of votes required to constitute a quorum as six, the number of votes required to constitute 2/3 of the council as seven and the number of votes that would constitute 3/4 of the council as eight.
- Section 2-6 has been revised to clarify that matters will be placed on the council agenda if directed by the Mayor, City Administrator or a majority of the entire council.
- Section 2-17 has been revised to reflect that the Mayor has the authority to recommend the appointment of all statutory officials to the City Council and to make the decisions on hiring other department heads and subordinate employees and will have the power to grant reprieves and pardons for offenses arising under the ordinances of the city.
- Section 2-19 has been revised to remove the requirements set forth under subsection 2 of that ordinance on council member involvement with citizen complaints from their ward.

- Section 2-19 has been revised to reflect that council members have the right to make inquiries of city staff but other contacts with the city staff should be through the City Administrator.
- Section 2-30 proposes to delineate the five statutory offices required by state statute, which are city administrator, city attorney, city clerk, city engineer and city treasurer, as statutory offices which are appointed by the mayor with the approval of the council. This code section further clarifies that these statutory officers are appointment for the term of the mayor and until their successors are appointed and qualified and may be removed by the mayor with approval of the majority of the council.
- Section 2-31 of the proposed City Code delineates the other department heads as hired officials. These officials would be hired and be subject to the personnel rules of the City of Grand Island as all other city employees This proposed section of the City Code would further distinguish the fire chief and police chief as officials subject to the civil service rules of Grand Island and the Emergency Management Director and Planning Director who are the two department heads which are retained through an interlocal agreement.
- Section 2-37 of the Code has been revised to delete the provisions of subsection 4 requiring the city administrator be responsible for preparation of the annual estimates of revenues and expenditures of the proposed budget since these duties are performed by the city's finance director. Subsection 7 of this code section has also been revised to indicate that the city administrator would act as program administrator for the Economic Development Program of the city.
- Section 2-39 of the City Code regarding the treasurer/finance director has been revised to reflect that the finance director is responsible for the preparation of the annual estimates of revenues and expenditures which is a duty that the finance director is currently performing.
- Section 2-40 of the City Code has been revised regarding the city attorney to reflect that outside counsel may be retained in matters where the city attorney has a conflict or where special expertise is needed.
- Section 2-41 has been added to the City Code to set forth the duties of the city engineer/public works director, which is one of the statutory director positions. The current City Code did not have a code provision specifically detailing the duties of the city engineer.
- Article VI of Chapter 2, Sections 2-76 through 2-84 have been removed since most of this language is obsolete and only one code section is present in its place which ratifies the city's existing police officer retirement system, firefighters retirement system and a general employee pension fund.
- The Planning and Community Development code sections have been removed to their own Chapter 37 and the Economic Development Program has been moved to a new Chapter 38.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve the revisions to the City Code as drafted by city staff.
2. Disapprove or deny the ordinance which would revise the City Code in which event the code would remain in effect.
3. Modify the recommendations of city staff for changing the City Code.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve the changes recommended by city staff to Chapter 2 of the City Code.

## **Sample Motion**

Motion to approve the ordinance revising code sections in Chapter 2 of the Grand Island City Code.

## CHAPTER 2

### ADMINISTRATION

#### Article I. Meetings; Committees

##### **§2-1. Form of Government**

The City of Grand Island is a City of the First Class with a municipal government organized pursuant to the provisions of Chapter 16 of the Revised Statutes of Nebraska.

##### **§2-2. Regular Meetings**

The regular meetings of the council shall be held at 7:00 p.m. in the council chambers of city hall, on the second and fourth Tuesdays of each month; providing that if such meeting date shall occur on a holiday, the meeting shall be on the next ~~business secular~~ day following, or such other time as the council may provide. Amendments to the schedule of city council meeting dates shall be by resolution.

##### **§2-3. Special Meetings**

Special meetings may be called by the mayor or any four council members, upon twenty-four hours written notice to every member of the council; provided, that the requirement of notice shall not be binding in any special meeting at which all members of the council are present without objection. Such notices may be served by any member of the police department or any other person in the City, and it shall be the duty of the city clerk when given such notices to serve the same or cause the same to be served immediately.

##### **§2-4. City Council; Study Sessions**

The City Council may hold a meeting to be referred to as a "Study Session" as needed and at the discretion of the City Council. Study sessions will be public meetings held at the time and place to be determined by the Council for which notice will be published pursuant to Nebraska statutory requirements. Study sessions shall be conducted to facilitate discussion between members of the Council and shall not be subject to formal parliamentary procedure. No motion, action, or vote of any kind shall be taken on any matter during a Study Session, except upon a motion to recess or to adjourn.

##### **§2-5. City Council; Quorum; Voting**

(1) A majority of all the members of the city council must be present at a regular or special meeting to constitute a quorum; but if less than such majority is present at the meeting; the majority of the council members present may adjourn the meeting from time to time without further notice.

(2) Except in those cases where Nebraska law requires a greater number of votes, six (6) affirmative votes shall constitute a majority vote be required to adopt a motion, resolution, ordinance, action, or policy. In those cases where the mayor is authorized by law to vote, the mayor's vote shall be counted as one of the six necessary affirmative votes.

(3) On votes requiring two-thirds vote of the council, such vote shall require seven (7) affirmative votes to pass.

(4) On votes requiring three-fourths vote of the council, such vote shall require eight (8) affirmative votes to pass.

##### **§2-6. Agenda For Meetings**

All matters for consideration at any regular meeting or study session of the city council shall be submitted in writing and filed in the office of the city clerk pursuant to the timetable established by ~~resolution, administrative policy which shall be published at least once yearly and posted continuously at City Hall and Edith Abbott Memorial Library.~~ All matters for consideration at any special meeting of the city council shall be submitted in writing and filed in the office of the city clerk at least twenty-four hours

prior to the time set for such special meeting. The city clerk shall place upon the agenda of any regular, special, or study session meeting only those matters which have been directed by a majority of the entire the council or authorized by the mayor ~~or a council member~~, the city administrator, ~~or city clerk~~.

**§2-7. Rules of Order**

The current edition of Robert's Rules of Order shall guide the proceedings of the council ~~where applicable and~~ where not in conflict with statutes or ordinances.

**§2-8. Disturbing Meetings**

It shall be unlawful to disturb or disrupt any regular, special, or study session meeting of the council. Any person or persons who repeatedly disturb or disrupt a meeting of the council may be summarily ejected from the council chambers and the city hall at the Mayor's discretion. The Police Chief or his/her designee shall carry out such Mayoral directive.

**§2-9. Council Committees**

Committees of the council may be created by the mayor and approved by a majority of the council to advise the council in regard to special issues. Each committee will consist of not more than five council members, appointed by the mayor and confirmed by the council. The committees may also consist of other members, including staff, who shall serve only as non-voting members. The manner of appointment shall be the same. The chairman of the committee will be a council member. Council committees shall conduct their meetings in compliance with the open meetings law, shall maintain minutes of all meetings, and shall submit their minutes, findings, and recommendations to the city council in writing in a timely manner. Appointments to council committees shall be for a term of one year unless ended sooner by dissolution of the committee. The committee may be dissolved by any of the following actions:

- (1) Majority vote of the committee to dissolve;
- (2) Resolution of the special issue assigned;
- (3) Majority vote of the city council; or
- (4) Expiration of one year from date of creation unless reappointed.

**§2-10. Mayor's Committees**

Mayor's committees may be appointed by the mayor without council approval to advise the mayor in regard to special issues. Mayor's committees are ~~not normally~~ subject to the open meetings law, ~~and will conduct their meetings in accordance with the mayor's instruction.~~ Findings and recommendations of mayor's committees shall be submitted to the mayor and shall be considered as advising the mayor only and not the council.

**§2-11. Boards and Commissions**

The city council may establish citizen advisory boards and commissions of either a permanent or temporary nature to study and/or make recommendations on designated issues. Certain powers may be delegated to boards and commissions as provided for by statute. Boards and commissions of a permanent nature shall be established by ordinance. The structure and appointments of the boards and commissions shall be in accordance with other provisions contained herein.

**§2-12. Reserved**

**§2-13. Reserved**

**§2-14. Reserved**

## **Article II. Elected Officials**

### **§2-15. Mayor; Powers; Duties**

The mayor shall be the ~~chief principal~~ executive officer of the City of Grand Island, and advised by the members of the city council; shall in general supervise and control all of the business, affairs, and officers of the City of Grand Island. The mayor shall, when present, preside at all meetings of the city council. The mayor shall have the power, together with any other proper officer of the City of Grand Island, upon authorization by the city council, to sign certificates, deeds, mortgages, bonds, contracts, or other documents except in cases where the signing and execution thereof shall be expressly delegated by the city council to other officers or agents of Grand Island, ~~or shall be required by law to be otherwise signed or executed,~~ and in general shall perform all duties incident to the mayor's office, ~~and such other duties as may be prescribed by the city council from time to time.~~

The mayor shall have the right to vote when his or her vote shall be the sixth decisive vote upon any pending matter, legislation, or transaction. The mayor shall take care that the ordinances of the City and the provisions of the law relating to cities of the first class are complied with. The mayor may administer oaths, and shall sign the commissions and appointments of all officers appointed in the City.

### **§2-16. Mayor; Veto Powers; Passage Over Veto**

The mayor shall have the power to approve or veto any ordinance passed by the city council, and to approve or veto any order, bylaw, resolution, award of, or vote to enter into any contract, or the allowance of any claim; provided, any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over such veto by a vote of two thirds of all the members elected to the council, notwithstanding such veto. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim, and returns the same with objections in writing to the next regular meeting of the council, the same shall become a law without the mayor's signature. The mayor may veto any item or items of any appropriation bill, and approve the remainder thereof. An item or items so vetoed may be passed by the council over the veto as in other cases. ~~If the veto is used by the mayor, the issue will be carried over to the following regular meeting.~~

### **§2-17. Mayor; Additional Powers; Duties**

In addition to the foregoing powers and duties, the mayor shall:

(1) Appoint and remove, with approval of the city council, all ~~statutory officials~~ ~~department heads~~; appoint, remove, correct, or discipline all other hired officials and subordinate employees in the departments in both the classified and unclassified service, which appointments shall be upon merit and fitness alone pursuant to the personnel rules, and in the classified service all appointments and removals shall be subject to civil service requirements.

(2) Appoint all members of advisory boards, commissions, and committees established by ordinance or action of the council, subject to council approval.

(3) Have the power to grant reprieves and pardons for all offenses arising under the ordinances of the city after conviction to remit fines and forfeitures.

### **§2-18. Mayor; Compensation**

The annual compensation for the mayor shall be \$13,000 per year, payable monthly in equal installments as required by law.

**§2-19. Council; Authority; Duties**

(1) The council can bind the City of Grand Island, Nebraska, by their acts only when they are duly assembled at a regular or special meeting.

~~(2) The city council members are responsible to the citizens of Grand Island, but especially to their ward constituents. All complaints from their respective wards shall be handled by council members of that ward. The council member will listen, discuss, and arbitrate the personal problems of their constituents as they are affected by city operations. If a solution cannot be reached, the mayor can be invited into the problem. The final decision may ultimately go to the city council for action.~~

~~(2)(3) The city council shall do all things necessary to comply with, and enforce the ordinances of the City of Grand Island and the laws of the State of Nebraska relating to cities of the first class.~~

~~(3) The city council specifically reserves the right to make inquiries of any personnel relative to municipal activities. Except for purpose of inquiry, the city council shall deal with the administrative services of the City through the administrator, and neither the council nor its members shall give orders directly to any subordinate of the city administrator.~~

~~(4) The city council may by motion or resolution adopt appropriate personnel rules, and amend such rules in the same manner from time to time.~~

**§2-20. Council President; Election; Term; Duties**

The council shall elect one of the council members as president of the council. The term of the president shall be one year, commencing the first regular meeting in December, and terminating upon election of a new president at the first regular meeting in December of the following year. The president will assume the duties of the mayor during the mayor's absence or illness. Absence will be indicated by notification by the mayor, or through the mayor's inability to participate in a council meeting or city function. Illness shall be any sickness or injury preventing the mayor from participating in his or her daily administration or ceremonial duties.

**§2-21. City Council Members; Compensation**

The annual compensation for members of the city council shall be \$6,000 per year, payable monthly in equal installments as required by law.

**§2-22. Mayor and Council; Benefit Plans**

The mayor and members of the city council shall not be eligible to participate in the city employee health insurance, life insurance, disability insurance, or retirement plans.

**§2-23. Bonds for ~~Elected Officials~~ City Officers**

Before entering upon the duties of their office ~~or employment~~, the following named elective officers ~~and employees~~ of the city are hereby required to give bonds and security as provided by law for the faithful performance of their duties, which bonds shall be approved by the city council and shall be given for the following sums:

Mayor	\$ 20,000
City Council Member	\$ 1,000

**§2-24. Removal of Elected Official Officers for Misconduct**

Any elective official officer of the city ~~specified in §16-217 of the Reissue Revised Statutes of Nebraska, 1943,~~ may be removed from office for misconduct by the mayor and council in the following manner:

Upon the filing of written charges signed and verified, charging any such officer with misconduct, the council shall by resolution set a time for hearing not less than five days nor more than ten days



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subsequent to the passage of such resolution for a hearing on such charge. At such hearing, the officer whose conduct shall have been called into question shall have the right to be present to interrogate witnesses, to be represented by counsel, and either in person or by counsel make a statement or argument to the council. The city attorney shall act as prosecuting attorney and shall have the right to examine or cross examine each witness presented and to make any statement or argument to the council. If upon such hearing, the council shall by a three-fourths vote of all the council members, find or determine that the officer in question has been guilty of misconduct rendering him or her an unfit person to hold such office, then the city council may declare such office vacant and such office shall then be vacant forthwith.

**§2-25. Filling Vacancies of Elective Officers**

The mayor ~~and council~~ shall fill by appointment any vacancy which may exist, caused by death, resignation or disability of any elective officer of the City. Such appointment of the mayor shall be subject, however, to approval of the majority of the council.

**§2-26. Reserved**

**§2-27. Reserved**

**§2-28. Reserved**

**§2-29. Reserved**

**Article III. Appointed and Hired Officials**

**Division 1. General**

**§2-30. Officers; Appointive**

The following shall constitute the statutory officers of the City of Grand Island which shall be appointed by the mayor and approved by the council. These officers shall hold office until the end of the mayor's term and until their successors are appointed and qualified. These appointive officers may be removed at any time by the mayor, with the approval of a majority of the council:

- City Administrator
- City Attorney
- City Clerk
- City Engineer / Public Works Director
- City Treasurer / Finance Director

~~Pursuant to Neb. Rev. Stat. §16-217, the following shall constitute the appointive officers of the City of Grand Island:~~

- ~~City Administrator~~
- ~~Chief of Police~~
- ~~Chief of the Fire Department~~
- ~~City Attorney~~
- ~~Public Works Director~~
- ~~Utilities Director~~
- ~~City Treasurer / Finance Director~~
- ~~Human Resources Director~~
- ~~City Clerk~~
- ~~Parks and Recreation Director~~

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~~Building Department Director~~

~~Library Director~~

~~Directors of Departments created by Interlocal Agreements are as follows:~~

~~Emergency Management Director~~

~~Health Director~~

~~Planning Director~~

**§2-31. Hired Officials**

The officials set forth below shall be hired officials which shall be selected for employment by the city as set forth in the personnel rules and regulations. All of the hired officials shall be subject to the personnel rules of the City of Grand Island as adopted by resolution. The personnel rules are supplemental to the civil service rules for the officials set forth in subparagraph (B), and supplemental to the terms of interlocal agreements pertaining to the officials set forth in subparagraph (C) below.

(A) The following shall constitute the general officials of the City of Grand Island:

Building Department Director

Human Resources Director

Library Director

Parks and Recreation Director

Utility Director

(B) The following shall constitute the officials subject to the civil service rules of the City of Grand Island:

Fire Chief

Police Chief

(C) The following shall constitute the interlocal officials of the City of Grand Island:

Emergency Management Director

Planning Director

**§2-32. Bonds for Appointed Officials ~~City Officers~~**

Before entering upon the duties of their ~~office or~~ employment, the following named appointed officials and officers and employees of the city are hereby required to give bonds and security as provided by law for the faithful performance of their duties, which bonds shall be approved by the city council and shall be given for the following sums:

City Treasurer	\$100,000
Deputy City Treasurer	\$ 50,000
City Clerk	\$ 10,000
City Administrator	\$ 20,000

**§2-33. Reserved**

**§2-34. Reserved**

**Division 2. City Administrator**

**§2-35. Administrator; Appointment; Duties**

There is hereby created and established the office of city administrator, to be appointed by the mayor, with the approval of the city council; provided, no elective officer of the City of Grand Island shall hold the position of city administrator. The city administrator shall be the chief operating officer of the City of Grand Island. The administrator shall hold office until the end of the mayor's term of office, and until a successor is appointed and qualified, unless sooner removed, or the ordinance creating the office shall be repealed, except as otherwise provided by law. The employment of the city administrator may be administered by a negotiated contract.

The purpose of the office of city administrator is to provide for the day-to-day administration of the City of Grand Island, Nebraska. The city administrator will remain under the direction of the mayor and be responsible thereto for the efficient conduct of the office.

The city administrator shall not participate in a local election that affects the office of mayor or city council, or any other elective municipal position or issue, except for the casting of an individual ballot.

~~\_\_\_\_\_ The mayor and council specifically reserves the right to make inquiries of any personnel relative to municipal activities. Except for purpose of inquiry, the city council shall deal with the administrative services of the City through the administrator, and neither the council nor its members shall give orders directly to any subordinate of the city administrator.~~ The city administrator will keep the mayor informed and seek input on any action he or she takes or will take.

The salary of the city administrator shall be established by ordinance.

**§2-36. Administrator; Qualifications**

The city administrator shall be chosen on the basis of executive and administrative qualifications with special reference to actual experience, or knowledge of accepted practice in respect to the duties of the office. At the time of appointment, the city administrator need not be a resident of Grand Island, Nebraska, but during the term of office he or she shall reside within the city limits. ~~two-mile zoning area jurisdiction of the city.~~

**§2-37. Administrator; Duties; General**

The duties of the city administrator are as follows:

(1) ~~To a~~Attend all meetings of the city council and its committees unless excused, with the duty of reporting on any matter concerning the City under his or her direction; and to attend such other meetings of departments and officials as the duties of the office may require, or as may be directed by the mayor or council.

(2) ~~To m~~Make investigation into all affairs of the City and to make recommendations to the mayor and council for the adoption of such measures and ordinances as are deemed necessary or expedient for the good government of the City.

(3) ~~To a~~Analyze the functions, duties, and activities of the various departments, divisions, and services of the City, and of all employees thereof, and to make recommendations regarding the same to the mayor and council; and to faithfully carry out the directives and recommendations of the mayor and council in coordinating the administrative functions and operations of the various departments, divisions, and services.

(4) ~~To k~~Keep the mayor and council fully advised as to the financial condition of the City ~~and its needs. The city administrator shall be responsible for the preparation of the annual estimates of revenues and expenditures of the proposed budget for the presentation of a complete financial plan for the City to the mayor and council prior to the consideration and adoption of the annual appropriation ordinance by the governing body.~~ With the adoption of the budget and the passage of the

appropriations ordinance by the governing body, the city administrator shall be responsible for the supervision and control of the budgeted expenditures.

~~—(5) To prepare and submit to the mayor and council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.~~

~~(5)(6) To~~ Oversee the supervision of all employees, and evaluate all appointed and hired officials, and recommend to the mayor the appointment, discipline, and transfer and dismissal of all City personnel.

~~(6)(7) To~~ investigate or have investigated all complaints filed against an employee, department, division, or service of the City, and to report such investigation with recommendation to the mayor and council.

(7) Act as Program Administrator for the Economic Development Program of the City, act as ex-officio member of the Economic Development Committee, assist the committee, and provide the committee with necessary information and advice on the economic development program.

~~(8) To~~ perform all other duties and exercise such other power as may be required by ordinance, or prescribed by resolution of the mayor and council.

### **Division 3. City Clerk**

#### **§2-38. City Clerk; Duties; Compensation**

There is hereby created the office and position of city clerk. The city clerk shall be appointed by the mayor with approval of a majority of the city council. The city clerk shall have the custody of all laws, ordinances and official records, and keep a correct journal of the proceedings of the council, and perform all other duties and meet all requirements imposed by law upon the position or office of city clerk and such other duties and requirements as may be lawfully required. The salary of the city clerk shall be fixed by ordinance.

### **Division 4. City Treasurer**

#### **§2-39. Finance Department; City Treasurer / Finance Director; Duties; Compensation**

There is hereby created a department of the City which shall be known as the Finance Department, which shall be responsible for the performance of the financial management and accounting functions of city government, including those of all departments and divisions thereof. The Department shall be responsible for developing, instituting, and maintaining all of the financial and accounting systems associated with the operation of city government including general ledger accounting; financial statements and reporting; cash management and investments; accounts payable and receivable; utilities billing and collection; payroll; and auditing. All personnel assigned to these functions shall come under the auspices of the Department and the direction of the finance director.

There is hereby created the office and position of City Treasurer/Director of Finance. This position ~~The~~ hereafter referred to as "Finance Director," shall be appointed by the mayor, with the approval of a majority of the city council. The Director shall perform all duties and meet all requirements imposed by law upon the position or office and such other duties as directed. The Director shall assist the city administrator in the preparation of the annual budget. The finance director shall be responsible for the preparation of the annual estimates of revenues and expenditures of the proposed budget for the presentation of a complete financial plan for the City to the mayor and council prior to the consideration and adoption of the annual appropriation ordinance by the governing body. The finance director shall

prepare and submit to the mayor and council, on a monthly basis, a complete report on the finance activities of the City. The salary of the position shall be fixed by ordinance.

#### **Division 5. City Attorney**

##### **§2-40. City Attorney; Duties; Compensation**

The office of city attorney is hereby created, which office shall constitute a full-time obligation upon the individual so appointed. The city attorney shall be appointed by the mayor, with the approval of a majority of the city council. The office shall be filled by appointment by the mayor and with consent of the city council.

The city attorney shall be the legal advisor of the council and city officers. The city attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the City, or that may be ordered by the council. The city attorney shall attend meetings of the council and give an opinion upon any matters submitted by the council, either orally or in writing, as may be required. The city attorney may hire outside counsel on matters in which the city attorney lacks expertise or in which the city attorney has a conflict of interest.

The salary of the city attorney shall be fixed by ordinance. ~~The mayor and council shall have the right to pay the city attorney additional compensation for legal services performed, or to employ additional legal assistants and to pay for such legal assistants out of the funds of the City.~~

#### **Division 6. City Engineer / Public Works Director**

##### **§2-41. City Engineer / Public Works Director; Duties; Compensation**

There is hereby created the office and position of City Engineer / Public Works Director, hereafter referred to as "Public Works Director". This position shall be appointed by the mayor, with the approval of a majority of the city council.

Among the duties required of the Public Works Director shall be making estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, bridges, curbing, gutters, and the repair and improvement of streets.

The Public Works Director shall make a record of the minutes of his surveys and of all work done for the city, including sewers and sewerage systems and accurately make such plats, sections, profiles and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the city and be turned over to his or her successor.

In addition to the duties specifically set forth above, the Public Works Director shall perform such other duties as the city council may require or are required by law.

The salary of the position of Public Works Director shall be established by ordinance.

**§2-42. Reserved**

**§2-43. Reserved**

#### **Article IV. Indemnification of Officers and Employees**

##### **§2-44. Definitions**

Officer shall include any elected, ~~or~~ appointed, or hired official of the city;

Employee shall include all employees of the city, whether under civil service or not.

**§2-45. Representation; City Attorney**

Among the duties of the city attorney shall be that of representing as counsel, without charge to the persons represented, any city officer or employee in connection with any claim, suit for damages, or other action against such person arising in connection with the performance by such officer or employee of his or her public duties; provided that such employee or officer may have his or her own counsel to assist in the defense, at the expense of the employee or officer.

**§2-46. Indemnification; Good Faith**

Any officer or employee who is held liable for the payment of any claims or damages, by way of judgment or settlement, shall be entitled to indemnification by the city, where the acts resulting in such liability were done in good faith, without malice, within the scope of authority of the employee or officer.

**§2-47. Governmental Immunity**

Nothing in this Article shall be construed as waiving the city's defense of governmental immunity to it or its employees or officers in any action brought against the city or such officer or employee.

**§2-48. Notice**

The provisions of this Article shall apply only where the city has been given notice of any actions brought against any city employee or officer, based upon any action of such employee or officer within the scope of his or her authority as such.

**§2-49. Representation; Conflict of Interest**

Nothing in this Article or in any ordinance of the city, and nothing in any agreement with the city attorney shall be construed to require the city attorney to provide legal services in any manner which would cause the attorney to be involved in a conflict of interest.

**§2-50. Reserved**

**§2-51. Reserved**

**§2-52. Reserved**

**§2-53. Reserved**

**Article V. Emergency Interim Successors**

**§2-54. Emergency Succession; Declaration**

In accordance with the terms and conditions of the state General Emergency Succession Act, hereinafter referred to as "such act," the mayor and council declare that it is necessary to invoke the provisions of such act in the City.

**§2-55. Officers To Appoint Successors**

Emergency interim successors shall be designated pursuant to the Local Emergency Operations Plan on file with the City Clerk and the Emergency Management Director.

~~(1) As provided in such act, the following officers of the City shall appoint emergency interim successors (alternates) to the powers and duties of their respective offices:~~

~~(A) Each member of the city council~~

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- ~~\_\_\_\_\_ (B) City Administrator~~
- ~~\_\_\_\_\_ (C) Chief of Police~~
- ~~\_\_\_\_\_ (D) Chief of Fire Department~~
- ~~\_\_\_\_\_ (E) City Attorney~~
- ~~\_\_\_\_\_ (F) Public Works Director~~
- ~~\_\_\_\_\_ (G) Director of Utility Operations~~
- ~~\_\_\_\_\_ (H) City Treasurer~~
- ~~\_\_\_\_\_ (I) City Clerk~~
- ~~\_\_\_\_\_ (J) Communications/Civil Defense Dir.~~
- ~~\_\_\_\_\_ (K) Parks and Recreation Director~~
- ~~\_\_\_\_\_ (L) Chief Building Official~~

~~(2) The provisions of Subsection 1 of this section are not exclusive, however, and shall not be construed in such a manner as to prohibit the appointment of alternates by any other duly elected or appointed officers of this City, including but not limited to the head of any department or section or the members of any board or other agency of the municipal government, or as to excuse the failure on the part of any such officer to make such appointments, when clearly required by such act.~~

~~§2-56. Reserved  
 §2-57. Reserved  
 §2-58. Reserved~~

**Article VI. Retirement and Pension Plans**  
**Division 1. Federal Insurance System**

**§2-76. Acceptance; Terms; Construction**

~~\_\_\_\_\_ The city accepts for itself and on behalf of its officials, appointees, and employees, except such as are excluded by the provisions of this division, their dependents and survivors, the provisions, benefits and protection of the Federal Old Age and Survivors' Insurance System, designated in this division as the "system," established by the Social Security Act. The term "employee" as used in this division shall mean an employee as defined by the Social Security Act and shall include both officers and appointees of the City.~~

**§2-77. Contracts; Authorization**

~~\_\_\_\_\_ The mayor is hereby authorized and directed to enter into such contracts and make such agreements and stipulations with the administrator of the system in and for the state, or such other state agency for the purpose that may hereafter be designated or created, as may be deemed necessary or expedient by the administrator, or other state agency authorized in the premises, as the case may be, or as required by general law, state or federal, or any applicable regulations of the state or federal agency, to extend the benefits and protection of such system to the eligible employees of the city, their dependents and survivors. Such contracts, agreements, or stipulations shall be executed in duplicate by the mayor, attested by the signature of the city clerk, with the seal of the city attached thereto, one copy thereof to be filed with and become a part of the permanent records of the City.~~

**§2-78. Employees Included In System**

~~\_\_\_\_\_ The employees or classes of employees of the City shall include all such employees as are not excluded from participation in the system by the provisions of the following section and such employees are hereby determined to be within and entitled to the benefits and protection of the system.~~

**~~§2-79. Employees Excluded From System~~**

~~The following employees are hereby determined to be excluded by the terms of this division from participation in said system: Any employee with respect to any position not authorized for coverage by applicable state or federal laws or regulations of the Federal Administrative Agency.~~

**~~§2-80. Withholdings From Salaries Authorized~~**

~~Withholdings from the compensation of eligible employees of this City as found and determined by the two preceding sections are hereby authorized, and the City shall impose upon such employees as to services covered by this division, such withholdings to be made in amounts and at such times as may be required by general law, state or federal, and applicable regulations promulgated with respect thereto by state or federal administrative agencies.~~

**~~§2-81. Social Security Fund; Payments To~~**

~~There is hereby created and the city treasurer is hereby authorized and directed to set up an account to be known as the "Social Security Fund," into which the withholdings authorized by the preceding section shall be paid; also the proceeds from payments made by the city, together with any appropriations from available funds that might be made from time to time by municipal authority for the benefit of such fund. The fund shall be kept segregated and shall be used for no other purpose than the provisions and obligations of this division as provided to be accomplished by such fund.~~

**~~§2-82. Payments from Fund to Administrator~~**

~~The moneys in the social security fund created by the preceding section shall be paid over to the tax commissioner designated by law as the administrator of the Social Security Act for the state as authorized and provided by regulations promulgated to that end by such administrator.~~

**~~§2-83. City Records and Reports~~**

~~The city treasurer shall keep such records and make such reports relevant to the administration of the Social Security Act as may be required by general law, state or federal, or as provided by regulations promulgated by either the state or federal administrator of the system.~~

**~~§2-84. Authorization of Certain Payments~~**

~~The city council shall authorize such payments as are required from the appropriate funds of the city in order to defray the cost to the city in meeting the obligations arising by reason of the contracts, agreements, or stipulations authorized under this article.~~

**Division 2. Retirement and Pension Plans**

**§2-59. Ratification of Existing Plans**

The City hereby affirms and ratifies the existing pension and retirement plans it has established which specifically includes the following plans:

- (1) A Police Officers Retirement System Fund and retirement plan pursuant to Neb. R.R.S. §16-1001 et seq;
  - (2) A Fire Fighters Retirement System Fund and retirement plan pursuant to Neb. R.R.S. §16-1020 et seq;
  - (3) A general employee pension fund and pension plan pursuant to Neb. R.R.S. §19-3501.
- Said funds and plans are hereby ratified and confirmed.



Chapter 2 ? Administration

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**~~§2-23. Procedure Not Exclusive~~**

~~\_\_\_\_\_ The procedure set forth in §2-22 shall not be exclusive but shall be cumulative and in addition to any other method of removal of any officer, allowed under the provisions of this Code, other ordinances of the City, or the laws of the state.~~

ORDINANCE NO. 9036

An ordinance to amend Chapter 2 of the Grand Island City Code; to amend various sections of Chapter 2 for housekeeping purposes; to restructure the hiring and retention of city officials; to move articles in Chapter 2 pertaining to the Planning Commission, the Community Development Division and the Community Redevelopment Division to a newly created city code Chapter 37; to move an article in Chapter 2 pertaining to the Economic Development Program to a newly created city code Chapter 38; to repeal Chapter 2 as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Chapter 2 of the Grand Island City Code is hereby amended as set out in Exhibit "A attached hereto.

SECTION 2. Chapter 2 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 4. That this ordinance shall be in force and take effect from and after its passage and publication in pamphlet form, within fifteen days in one issue of the Grand Island Independent as provided by law.

ORDINANCE NO. 9036 (Cont.)

Enacted: March 28, 2006.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk